

AFFIDAVIT

- 1) AFFIANT/AGENT.** I, Kevin Backes, a Border Patrol Agent of the United States Border Patrol, Customs and Border Protection, have been employed by the USBP/CBP for approximately 20 years and am currently assigned to the Border Patrol Station at Pembina, North Dakota.

Your affiant has reason to believe that Armando DE DIOS-Carrillo (DOB: XX/XX/1985), hereinafter DE DIOS, and Jose Ramon GONZALEZ-Resendiz (DOB: XX/XX/1981) hereinafter GONZALEZ, and Victor Manuel PEREZ-Aguilera (DOB: XX/XX/1988), hereinafter PEREZ, that they knowing that one or more persons is an alien, brings to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry in violation of 8 U.S.C. § 1324(a)(1)(A)(v)(I).

Your affiant has reason to believe that Armando DE DIOS-Carrillo (same as above), Merlin CARDENAS-Perez (DOB: XX/XX/1985), hereinafter CARDENAS, and Carlos Alberto POOT-Serrano (DOB: XX/XX/2002), hereinafter POOT illegally entered the United States at a place not designated by immigration officers, in violation of 8 U.S.C. § 1325(a)(1).

- 2) INITIAL ENCOUNTER.** On March 30, 2023, at approximately 9:15 a.m., Grand Forks Sector Radio Dispatch (KAK 720) received a call for assistance from Maida, ND Port of Entry Customs and Border Protection Officer (CBPO) Austin Rohlk. Border Patrol Agent (BPA) Nathan Adams called Officer Rohlk and was informed that a concerned citizen had called regarding a black pickup with California plates stuck on 108th Street, east of the Maida, ND Port of Entry. The officer stated that the vehicle had been pulled out and followed the tow truck back into Langdon, ND. BPA Adams was informed that D & B Motors in Langdon, ND was used to tow the vehicle. BPA Adams contacted D & B Motors and attempted to contact the tow truck driver to get more information on the tow. BPA Adams was informed that the driver was out on another call and would contact him once he returned.

BPA Adams traveled to the location where the vehicle was reported to have been stuck on 108th Street NE approximately 1.5 miles south of the United States/Canada International Border and approximately 1.5 miles east of the Maida Port of Entry. After locating where the vehicle was recovered, BPA Adams traveled to 109th Street NE, north of where the vehicle was stuck and looked for any signs of activity in the area. BPA Adams found fresh foot sign in the snow originating from Canada and stopping at 109th Street NE slightly northwest of where the vehicle had been stuck. The sign appeared to be for five subjects.

BPA Adams received a call from the tow truck driver and was informed that the vehicle followed him to the Cobblestone Inn in Langdon, ND. BPA Adams traveled to the Cobblestone Inn and saw a black pickup with California plates that met the description given. The license plate was run and returned to "Armando CARILLODEIOS." BPA Adams notified other Pembina agents that the vehicle had been located and agents responded to his location. At approximately 12:30 p.m., BPA Adams saw a subject walking around the pickup. BPA Adams approached and spoke to him.

The subject did not understand English, so BPA Adams performed an immigration inspection in the Spanish language on the subject after identifying himself as a United States Border Patrol Agent. The subject admitted to being a citizen of Mexico who was illegally present in the United States. He stated that his name is Armando DE DIOS-Carrillo. DE DIOS also said that he had medicine that was in his room that he wanted to retrieve. BPA Joshua Bailey arrived on scene soon after DE DIOS was encountered. While walking DE DIOS into the Cobblestone Inn, BPA Adams asked if there were any other people in his room. He stated there were three other people, and they were in the United States illegally as well.

DE DIOS granted the agents permission to enter the hotel room (room 206) and DE DIOS opened the door with his key and the agents followed him into the room. BPAs Adams and Bailey encountered three subjects. An immigration inspection was performed on all three subjects in the Spanish language. All three subjects admitted to being citizens of Mexico who were illegally present in the United States. All four subjects were taken into custody at that time and their property was gathered for transport.

While the subjects were being escorted out of the hotel, BPA Backes arrived at approximately 1:15 p.m. The additional subjects in custody were identified as; Merlin CARDENAS-Perez, Victor Manuel PEREZ-Aguilera, and Carlos Alberto POOT-Serrano.

BPA Backes first spoke with POOT. POOT admitted he was a citizen of Mexico and had entered the United States illegally from Canada. POOT stated he had entered the United States during the night with one other person identified as "Merlin." A white car had picked them up and driven them to the hotel in Langdon. BPA Backes asked if anyone else was left behind or could be stuck out in the snow. POOT said "no".

BPA Backes then spoke with CARDENAS. CARDENAS said he had crossed the border "last night" by walking and then was brought to the hotel. CARDENAS could not remember what the vehicle that picked them up looked like. CARDENAS also said everyone was together and no one was missing.

It was suspected the owner of the pickup truck, identified as DE DIOS, was a smuggler and he was placed in BPA Backes' vehicle. The suspected smuggled aliens were placed in BPA Adams' vehicle. BPA Bailey remained with the vehicles as BPAs Adams and Backes went to speak with hotel staff.

BPAs Adams and Backes spoke with the desk clerk, Christina, at the Cobblestone Inn. Christina stated a man who identified himself as Jose Gonzalez (later identified as Jose Ramon GONZALEZ-Resendiz) had checked into the hotel yesterday (3/29/2023) as a "walk up" (that is, no reservation) in the afternoon. She stated the credit card that was used to pay for the room was not under GONZALEZ's name. She also said GONZALEZ had come downstairs today, the 30th, to book a second night.

BPA Adams and Backes began to review security camera video with the clerks' assistance. It was observed the black pickup belonging to DE DIOS was being accompanied by what appeared to be a silver 4-door Honda. Also observed was a man, who the clerk said would have been GONZALEZ, checking in at the front desk on the 29th. Observed on video was GONZALEZ and DE DIOS entering the hotel in the early hours of the 30th with a group of five individuals wearing winter clothing and carrying bags entering room 206. The group appeared to be four men and one woman. Observed was GONZALEZ and an unknown male and female leaving the hotel near noon on the 30th and departing in the silver Honda. The clerk stated that the hotel's records showed the group had only rented one room, room 206.

After collecting property items for the smuggled aliens BPA Bailey looked in the pickup truck and observed children's clothing and toys. BPA Backes then confronted DE DIOS regarding children being smuggled in the group or other persons being left behind in the snow. DE DIOS stated there had been no children and everyone was accounted for. DE DIOS stated he had a child, and it was his personal truck. DE DIOS further stated his wife and a child were currently in Fargo, ND.

BPA Backes then confronted the other individuals in the group. They all stated there had been 5 total persons in the group when they entered the United States, but a man and a woman in the group had left the hotel with another man. All three said they were not familiar with the two that had departed, but thought they were also Mexican citizens.

While traveling to the Pembina Border Patrol Station, BPA Adams observed a silver Honda Accord traveling westbound on Highway 5 in Cavalier, ND. The vehicle and driver matched the subject and vehicle viewed on the Cobblestone Inn security footage that was associated with the smuggling event. BPAs Russell and Bailey were in the area and traveled westbound on Highway 5 to locate the vehicle. BPAs Bailey and Russell found the vehicle and followed it on Highway 5 until it pulled into the parking lot of the Cobblestone Inn in Langdon, ND at approximately 3:20 p.m. BPA Bailey observed the driver to be the only occupant. BPA Bailey then activated his emergency lights and proceeded toward the vehicle. Upon approaching the vehicle Agent Bailey observed the driver beginning to exit the vehicle. BPA Bailey identified himself as a Border Patrol Agent and asked the subject for identification. The subject presented a United States passport. BPA Bailey asked the subject why he was in the area and if he was staying at the hotel. The subject appeared to be nervous and stated he was in the area looking for work. BPA Bailey returned to his vehicle to conduct record checks and BPA Russell began to speak with the subject.

BPA Russell asked the subject, later identified as Jose GONZALEZ-Resendiz, why he was in the area. He replied he was in the area to see his girlfriend. BPA Russell asked where his girlfriend was to which he replied she was in Fargo. BPA Russell noticed the rear passenger area of the vehicle was full of household items, luggage, and clothing. BPA Russell asked if he dropped her off in Cavalier, to which he said "no, someone else took her to Fargo." BPA Russell then asked if he had travelled all the way from California as the vehicle had California plates; the subject responded he had recently traveled from Mexico. BPA Russell pointed out to the subject the hotel had surveillance video and multiple subjects had been observed staying in his room. BPA Russell stated to GONZALEZ the best course for him would be to not lie to agents. GONZALEZ then dropped his

head and would not make eye contact with the agents. BPA Bailey returned to the vehicle and confronted GONZALEZ about people being stranded in the snow and the potential for people freezing to death. GONZALEZ then stated he would tell the agents the truth. He stated that a friend of his had called him and said he was out in the "cold woods." The subject stated his friend "Armando" had called for help and the vehicle he was driving had been borrowed from a friend. GONZALEZ admitted he had picked up people on the border and that he had travelled from New Jersey to pick them up. GONZALEZ said he had dropped off two people about 45 minutes away from the hotel to a green Ford pickup truck. BPA Bailey advised GONZALEZ he was being arrested for alien smuggling and was placed in BPA Russell's service vehicle. BPA Bailey then advised GONZALEZ of his Miranda rights and transported him to Pembina Station.

- 3) POST-ARREST INVESTIGATION.** Upon arriving at the Pembina Border Patrol Station, all subjects were enrolled into NGI/IDENT, a computerized fingerprint identification system. The NGI/IDENT results returned showing no prior criminal history for any of the subjects and revealed Merlin CARDENAS-Perez had one prior immigration arrest. DE DIOS, CARDENAS, POOT, and PEREZ are citizens and nationals of Mexico. GONZALEZ is a citizen of the United States.

- 4) IMMIGRATION HISTORY.** Only CARDENAS was found to have any prior history:

Arrest Date: 02/22/2021
 Arrest Agency: USBP Chula Vista, CA Border Patrol Station
 Disposition: Expelled to Mexico under Title 42 protocols

- 5) CRIMINAL HISTORY.** None found for any subject.

- 6) CONSULAR NOTIFICATION.** BPA Bailey notified DE DIOS, CARDENAS, POOT, and PEREZ of their right to consular communication. None requested to speak with a consular official at the time of processing.

- 7) SUBJECT INTERVIEWS.**

Interview with GONZALEZ-Resendiz

At the Pembina Station a custodial interview with Jose Ramon GONZALEZ-Resendiz was conducted by BPAs Backes, Froese, and Huguley. BPA Backes, witnessed by BPA Froese, notified GONZALEZ of his Miranda Rights per Service Form I-214. GONZALEZ acknowledged his rights by signing Service Form I-214 and was willing to answer questions without an attorney present.

GONZALEZ stated he resides in Manville, NJ, but had just returned from a five-month stay in Mexico on Saturday (March 25). GONZALEZ claims DE DIOS contacted him on Saturday and asked him for a favor. DE DIOS wanted to move from California to Kansas and asked if GONZALEZ would be willing to help him find a house or apartment and co-sign a lease. GONZALEZ stated that a short time later DE DIOS contacted him to say he had changed his plan and had found a welding job in North Dakota and asked if GONZALEZ would still be willing to co-sign. GONZALEZ said he would agree to help, but only if DE DIOS paid for all his travel.

GONZALEZ said he knows DE DIOS because DE DIOS is good friends with his cousins that live in Cancun, Mexico, but he is not a close friend. GONZALEZ claims to operate a landscaping business in New Jersey.

GONZALEZ arrived in Fargo, ND on a flight from Newark, NJ on Monday (March 27). GONZALEZ stated DE DIOS paid for the flight online and had sent him the confirmation information. DE DIOS picked GONZALEZ up from the airport and they spent the next two days looking at rental properties. GONZALEZ stated DE DIOS was accompanied by his wife and young son and they were all staying at the “Fargo Inn.”

GONZALEZ claimed that DE DIOS sprung a request on him on Wednesday (March 29) and asked him to help bring some people into the United States from Canada. GONZALEZ agreed to help, but only this one time and claims they never discussed money. GONZALEZ said he also met a friend of DE DIOS on Wednesday nicknamed “Puerca.” GONZALEZ claims they departed Fargo on Wednesday, with GONZALEZ driving DE DIOS’ black pickup truck, and Puerca following in a silver sedan. They arrived at a hotel in Langdon, ND where GONZALEZ checked them in because he spoke English the best and DE DIOS paid for the room.

GONZALEZ claims DE DIOS and Puerca left the hotel at approximately 10:00 p.m. Wednesday night. Then, at approximately midnight, DE DIOS called him and said to come pick him up at “108.” GONZALEZ said DE DIOS sent him a location through Google Maps. GONZALEZ stated he departed the hotel shortly after and got stuck in the snow trying to drive to the location. GONZALEZ claims DE DIOS and a group of four people came walking up to the truck. They tried to free the truck but could not. DE DIOS called Puerca who showed up on a nearby intersection in a silver sedan. GONZALEZ claimed that he did not have proper winter weather gear and said he would drive the sedan back to the hotel with the four people who had just entered the United States. GONZALEZ drove the group to the hotel and then returned to pick up DE DIOS and Puerca at the stuck pickup truck. GONZALEZ agreed to stay with the pickup truck and call police for help, and DE DIOS and Puerca returned to the hotel in Langdon. GONZALEZ stayed in the truck overnight and contacted a tow service in the morning, eventually getting pulled out and returning to the hotel at approximately 10:00 a.m.

GONZALEZ stated that later that morning the female in the group asked GONZALEZ to take her and another male to what he thought could be Grand Forks, ND. GONZALEZ said he agreed and drove them in the silver sedan to an unknown hotel somewhere in a town and then immediately returned to Langdon.

Interview with PEREZ-Aguilera

At the Pembina Station a custodial interview with Victor Manuel PEREZ-Aguilera was conducted by BPAs Froese, Huguley and Backes. BPA Froese, witnessed by BPA Huguley, notified PEREZ of his Miranda Rights per Service Form I-214. PEREZ acknowledged his rights by signing Service Form I-214 and was willing to answer questions without an attorney present.

During his initial interview with BPAs Froese and Huguley, PEREZ claimed to have been smuggled into the United States like the rest of the group, but then later contacted an agent saying he now wanted to tell the truth.

BPA Backes joined BPAs Froese and Huguley for the second interview. PEREZ claimed that he had last entered the United States on October 30, 2022 and had planned with DE DIOS to be smuggled into the United States at that time. PEREZ stated his family has known DE DIOS's family for years because they live in adjacent villages in Mexico. PEREZ claimed he knew DE DIOS had been living in the United States and so asked him to help him cross the border.

PEREZ stated he had agreed to pay DE DIOS \$8,000 to enter the United States. PEREZ claims to have planned to travel from Cancun, Mexico to Toronto, Canada via a travel agency which also planned for a "four day" tourist visa to Canada. PEREZ claims to have traveled with a cousin and once they arrived in Toronto they then, per instructions from DE DIOS, traveled to Winnipeg, Manitoba, Canada and then on to Winkler, Manitoba. On the day they entered the United States, after paying for a ride to the border, PEREZ and his cousin were met by DE DIOS at the border. DE DIOS transported them to a hotel about an hour-and-a-half away, possibly to Grand Forks. PEREZ claims he has been steadily employed since approximately November 2022, at a steel welding factory near Minneapolis.

PEREZ stated DE DIOS contacted him this past Friday (March 24) to ask for help smuggling people. PEREZ stated DE DIOS has been pressuring him more frequently to help smuggle people, but he had always declined because he has a good job and did not want to get into trouble. This last time however DE DIOS mentioned that PEREZ still owes him money, he is supposed to pay in installments, and DE DIOS mentioned he knows PEREZ's children and wife still reside in Mexico. PEREZ took the mention of his family as a threat and fears DE DIOS' family in Mexico could harm his immediate family. PEREZ stated he only helped DE DIOS smuggle aliens because he is afraid of him.

PEREZ claims to have met "Ramon" (Jose Ramon GONZALEZ-Resendiz) in Fargo, ND on Monday or Tuesday (March 27 or 28) along with DE DIOS. PEREZ stated DE DIOS was in possession of a black pickup truck and a silver car. The three of them departed Fargo on March 29. PEREZ drove the silver car and followed GONZALEZ and DE DIOS in the pickup to a hotel in Langdon, ND arriving at approximately 5:00 p.m.

PEREZ claims DE DIOS and GONZALEZ left the hotel to pick up people about 10:30 p.m. on the 29th in the pickup truck and he stayed behind at the hotel because he was scared. PEREZ stated that sometime later DE DIOS called him and said he had to come find him because they were stuck in the snow. DE DIOS sent his location to PEREZ via Google Maps. PEREZ claims to have arrived at the location at approximately 12:00 a.m. When PEREZ arrived, GONZALEZ put a group of people into the car and then drove the car to the hotel, leaving PEREZ and DE DIOS at the truck. GONZALEZ returned sometime later and then DE DIOS and PEREZ returned to the hotel in the car while GONZALEZ stayed with the stuck pickup.

PEREZ was asked about a nickname GONZALEZ had used referring to another one of the drivers during the smuggling event “Puerca.” PEREZ stated that is a nickname he has had since childhood because of his bigger stature.

Interview with CARDENAS-Perez

At the Pembina Station a custodial interview with Merlin CARDENAS-Perez was conducted by BPAs Backes, Froese, and Adams. BPA Backes, witnessed by BPA Froese, notified CARDENAS of his Miranda Rights per Service Form I-214. CARDENAS acknowledged his rights by signing Service Form I-214 and was willing to answer questions without an attorney present.

CARDENAS claims that several months ago he was in Playa Del Carmen, Mexico and was asking about how to enter the United States. CARDENAS said he was given a phone number for “Armando” and was told Armando could get him into the United States.

CARDENAS contacted Armando in late February 2023. Armando told CARDENAS to plan with a travel agency in Cancun, Mexico in order to enter Canada. CARDENAS believed the name of the agency was similar to “Tram Visa”. Tram Visa prepared a packet for CARDENAS that included round trip flights, hotel, and a visa to enter Toronto, Canada for 26,000 Mexican pesos. CARDENAS said the packet was completed about a month before he left Mexico.

CARDENAS left Cancun on March 21 and arrived in Toronto. CARDENAS claims to have stayed in a hotel in Toronto for four days and then traveled by airplane to Winnipeg on Saturday (March 25). CARDENAS stayed in Winnipeg for three days and then traveled to a hotel in Winkler by Uber and stayed one night. CARDENAS claims that is when he met the rest of the group that was to enter the United States. CARDENAS said Armando mostly spoke with “Carlos” (POOT, see below) about how to get from Winkler to the border.

CARDENAS stated a black truck driven by a man wearing a hood that did not speak Spanish picked the group up at the hotel in Winkler at about 11:00 p.m. They traveled for about 40 minutes to an hour until the truck stopped and Armando (DE DIOS) was there waiting for them. Armando guided the group through deep snow on foot for about three hours until they arrived at a black pickup truck occupied by a driver. The truck was stuck, and they waited there for about 20 minutes until a little car showed up. CARDENAS said the group was transported for about 40 minutes until they arrived at a hotel.

CARDENAS stated there were four people that were in the group that entered from Canada. At the hotel in the United States there were two other men. CARDENAS described them as a taller man (PEREZ) and another man that was not Armando who had driven the car from the border area to the hotel (GONZALEZ). When the group arrived at the hotel, they were cold and tired, and CARDENAS went to sleep.

CARDENAS stated he was to pay \$8,000 to Armando to be smuggled and his ultimate destination was San Francisco, CA. CARDENAS said friends of his in San Francisco had made the arrangements to pay Armando. CARDENAS was sure his friends had spoken with Armando because of conversations he had with them regarding the plan for being smuggled into the United States. CARDENAS said he knew the plan for him with Armando was to travel with Armando to Minneapolis, MN and then to arrange further travel from there.

Interview with POOT-Serrano

At the Pembina Station, a custodial interview with Carlos Alberto POOT-Serrano was conducted by BPAs Backes, Froese, and Adams. BPA Backes, witnessed by BPA Froese, notified POOT of his Miranda Rights per Service Form I-214. POOT acknowledged his rights by signing Service Form I-214 and was willing to answer questions without an attorney present.

POOT said he decided to travel to the United States after an uncle asked him in November of 2022 if he would be willing to go to the United States to work. A friend got him in touch with a smuggler and was told by the smuggler it would cost \$8,000 to be smuggled into the United States. POOT said the smuggler was named "Armando" but went by the nickname "Cascarin" in the messaging app WhatsApp. POOT said he communicated with Armando exclusively through WhatsApp calls and messages. POOT claims his family and Armando's family know each other in Mexico and that's where the nickname Cascarin came from.

POOT was instructed to plan with a travel agent in Cancun to travel to Canada. POOT left Cancun on March 20 and arrived in Toronto, Canada. In Toronto, POOT met "Merlin" (CARDENAS) where they spent five days in a hotel. They then traveled by airplane from Toronto to Winnipeg and POOT shared an Uber with CARDENAS to a hotel in Winkler. POOT said Armando called at 5:00 p.m. and said a truck would arrive at the hotel to pick them all up at about 10:00 p.m. The truck arrived and they rode for approximately 30 minutes until the truck stopped and Armando was there waiting for them. Armando led them on foot through deep snow for about three hours until they arrived at a road where they waited for about 20 minutes until a pickup truck arrived. Everyone boarded the truck, but it then got stuck in the snow. POOT stated Armando then called someone and another person arrived in a small white car. The driver of the truck walked the group to the waiting car and the truck driver then drove the car to a hotel. POOT described the driver as a dark-skinned man with short hair, a description matching and believed to be GONZALEZ. POOT stated Armando and the other man who had arrived in the car stayed with the truck.

POOT claimed they arrived at a hotel at approximately 3:30 a.m. and the trip took less than an hour. POOT stated everyone was cold and tired and they stayed at the hotel while the man with the short hair—again believed to be GONZALEZ—left the hotel. POOT stated Armando and the other man who had driven the car to where the truck was stuck returned in the car and the short-haired man stayed with the truck. POOT said everyone was sleeping in the hotel when the man with the short hair returned in the truck sometime in the morning.

POOT stated his uncle that resides in Houston, TX made the arrangements to pay the smugglers. POOT believed his uncle may have paid \$1000 to start but did not know for sure. POOT intended to travel to Houston to reside with this uncle.

Interview with DE DIOS-Carrillo

At the Pembina Station, a custodial interview with Armando DE DIOS-Carrillo was conducted by BPAs Backes, Froese, and Huguley. BPA Backes, witnessed by BPA Froese notified DE DIOS of his Miranda Rights per Service Form I-214. DE DIOS acknowledged his rights by signing Service Form I-214 and requested an attorney be present during questioning. No further interview was conducted with DE DIOS.

In my training and experience, the above facts and circumstances constitute violations of Title 8, United States Code, Sections 1324(a)(1)(A)(v)(I) and 1325(a)(1).

The foregoing is true and correct to the best of my knowledge and belief.



Kevin Backes
United States Border Patrol Agent

Sworn to before me in person or by reliable electronic means, this 3rd day of April, 2023.



Alice R. Senechal
United States Magistrate Judge